

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BLUEFIELD

JONATHAN COCHRAN,

Plaintiff,

v.

CIVIL ACTION NO. 1:21-00586

INVESTIGATOR MIKE COCHRAN  
and JOHN DOES,

Defendants.

**MEMORANDUM OPINION AND ORDER**

Pending on the court's docket is defendant Mike Cochran's motion for leave to take the deposition of plaintiff Jonathan Cochran, an incarcerated person. (ECF No. 31). According to defendant's motion, plaintiff Cochran is currently incarcerated as a pre-trial felon in the South Central Regional Jail. See id. at ¶ 7.

Federal Rule of Civil Procedure 30(a)(2)(B) requires a party to "obtain leave of court" to take a deposition "if the deponent is confined in prison." However, plaintiff is not confined in a "prison" but, rather, is a pre-trial detainee in "jail." Therefore, the court has doubts that a court order to take plaintiff's deposition is even required under the federal rule. See Blackwell v. Houser, 5:16-cv-67-FDW, 2017 WL 392184, at \*2 n.1 (W.D.N.C. Jan. 27, 2017) (no court order to take deposition of plaintiff required where "[p]laintiff is a pretrial detainee

being housed in a local county jail").\* However, in the event such an order is required, defendant's motion is **GRANTED**.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record and unrepresented parties.

**IT IS SO ORDERED** this 13th day of April, 2023.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge

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\* In both cases cited in defendant's motion, the deponent was in prison.